

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES of AMERICA

Case Number: 1:05-cr-10106-DPW

v.

MICHAEL O'DONNELL,  
Defendant.

NOTICE

NOW COMES DEFENDANT, Michael O'Donnell, by his attorney, and gives notice under the amended procedural order of April 14, 2006, paragraph "10.", entitled "Hearing and Counsel's Obligations", in connection with the May 4, 2006 sentencing hearing in this matter:

1. 10(a)(1)(a). The defendant shall move for a departure and a non-guidelines sentence (see Motion for Downward Departure of April 17, 2006; Doc. No. 16).
2. 10(a)(1)(b). Counsel has submitted objections to the PSR relative to whether there are "questions not adequately addressed in the pre-sentence report".
3. 10(a)(1)(c). The defense may wish to offer Charles Drebing, whose CV and report have been provided to the government in accordance with the plea agreement. Counsel estimates that, if an evidentiary hearing were held, the matter would not require more than 1.5 hours. The defense seeks a sentence not greater than necessary to achieve the purposes of the Sentencing Reform Act. In particular, Mr. O'Donnell has treatable mental conditions which should cause this Court to shorten his sentence and impose special conditions of supervised release. There also exist facts such as extraordinary mental condition,

diminished capacity and social history/lack of guidance/abuse, which, in combination, take this case outside the heartland of ordinary offenses such that a departure is warranted under *Koon* and its progeny.

4. 10(a)(2). Counsel intends to submit a sentencing memorandum not less than five days before hearing.
5. 10(a)(3). Counsel shall provide a copy of the memorandum and related documents to USPO Smith not less than five days before sentencing.

Dated this 25th day of April, 2006 at Boston, Massachusetts.

/s./ Kevin L. Barron

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CERTIFICATE OF SERVICE

Counsel certifies that he has served AUSA Donald Cabell electronically with a true copy of this motion by the CM/ECF of this District today on April 25, 2006. No party requires service by mail.

/s./ Kevin L. Barron

Kevin Lawrence Barron 550712